

HOUSE BILL No. 1162

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-8.5-5.

Synopsis: Competitive procurement for utilities. Requires the utility regulatory commission, before granting an application for a certificate of public convenience and necessity, to find that the applicant used a request for proposal process that affords open and competitive bidding.

Effective: July 1, 2014.

Braun

January 13, 2014, read first time and referred to Committee on Utilities and Energy.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1162

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-8.5-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) As a condition for
3 receiving the certificate required under section 2 of this chapter, the
4 applicant shall file an estimate of construction, purchase, or lease costs
5 in such detail as the commission may require.
6 (b) The commission shall hold a public hearing on each such
7 application. A certificate shall be granted only if the commission has:
8 **(1) made a finding that the applicant used a request for**
9 **proposal process that affords open and competitive bidding**
10 **under guidelines adopted under subsection (e);**
11 **(+) (2) made a finding as to the best estimate of construction,**
12 **purchase, or lease costs based on the evidence of record;**
13 **(-) (3) made a finding that either:**
14 **(A) the construction, purchase, or lease will be consistent with**
15 **the commission's plan (or such part of the plan as may then be**
16 **developed, if any) for expansion of electric generating**



capacity; or

(B) the construction, purchase, or lease is consistent with a utility specific proposal submitted under section 3(e) of this chapter and approved under subsection (d). However, if the commission has developed, in whole or in part, a plan for the expansion of electric generating capacity and the applicant has filed and the commission has approved under subsection (d) a utility specific proposal submitted under section 3(e) of this chapter, the commission shall make a finding under this clause that the construction, purchase, or lease is consistent with the commission's plan, to the extent developed, and that the construction, purchase, or lease is consistent with the applicant's plan under section 3(e) of this chapter, to the extent the plan was approved by the commission;

~~(3)~~ (4) made a finding that the public convenience and necessity require or will require the construction, purchase, or lease of the facility; and

~~(4)~~ (5) made a finding that the facility, if it is a coal-consuming facility, utilizes Indiana coal or is justified, because of economic considerations or governmental requirements, in using non-Indiana coal.

(c) If:

(1) the commission grants a certificate under this chapter based upon a finding under subsection ~~(b)(2)~~ (b)(3) that the construction, purchase, or lease of a generating facility is consistent with the commission's plan for the expansion of electric generating capacity; and

(2) a court finally determines that the commission plan is invalid; the certificate shall remain in full force and effect if the certificate was also based upon a finding under subsection ~~(b)(2)~~ (b)(3) that the construction, purchase, or lease of the facility was consistent with a utility specific plan submitted under section 3(e) of this chapter and approved under subsection (d).

(d) The commission shall consider and approve, in whole or in part, or disapprove a utility specific proposal or an amendment thereto jointly with an application for a certificate under this chapter. However, such an approval or disapproval shall be solely for the purpose of acting upon the pending certificate for the construction, purchase, or lease of a facility for the generation of electricity.

(e) The commission shall adopt guidelines to determine whether a request for proposal process affords open and competitive bidding for purposes of making a finding under subsection (b)(1).



- 1 **The guidelines must do the following:**
- 2 **(1) Require an invitation to bid to be issued to all qualified**
- 3 **bidders.**
- 4 **(2) Provide for the public opening of all bids.**
- 5 **(3) Provide an opportunity for public comment on all bids.**
- 6 **(4) Establish objectively measurable criteria to evaluate a**
- 7 **request for proposal process.**

